

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ERIC MARTIN MATTHEWS
#75804-004,

Plaintiff

v.

EXECUTIVE OFFICE FOR THE
UNITED STATES ATTORNEYS,
et al.,

Defendants

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CIVIL NO. A-20-CV-370-RP-SH

ORDER

Before the Court is Plaintiff's Motion to Proceed on Appeal *In Forma Pauperis*, filed September 15, 2021 (Dkt. 58). After review of Plaintiff's IFP application, the Court **GRANTS** the application.¹

In support of his motion, Plaintiff, who is incarcerated in FCI Bastrop, submitted a signed affidavit and list of transactions from his inmate trust account. Dkt. 58-1. Plaintiff also states that the issue on appeal concerns the legal conclusions raised in his objection to the Magistrate Judge's Report and Recommendation on his Freedom of Information Act ("FOIA") requests. In essence, Plaintiff argues that administrative review of an alleged untimely response to a FOIA request was precluded by this litigation. The Court finds that Plaintiff has presented a good faith non-frivolous issue for appeal.

The Clerk of Court is directed to mail a certified copy of this Order to FCI Bastrop, Attention Finance, P.O. Box 1010, Bastrop, Texas 78602, and provide a copy of this Order to the Financial Clerk in the Austin Division of the Western District of Texas.

¹ The Court further notes that Plaintiff is presumed entitled to proceed *in forma pauperis* in the court of appeals because he was allowed to proceed so in this Court.

Even though Plaintiff is not required to prepay his filing fees, a prisoner who brings a civil lawsuit *in forma pauperis* is subject to paying an initial partial filing fee, and thereafter, monthly payments until the total \$505.00 filing fee is paid in full. These payments will be processed automatically by Plaintiff's custodial institution.

28 U.S.C. § 1915(b)(1) provides that:

(b)(1) . . . [I]f a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

- (A) the average monthly deposits to the prisoner's account; or
- (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

The Court has assessed that Plaintiff must pay an initial partial filing fee is \$42.51. Thereafter, Plaintiff shall pay \$462.49, the balance of the filing fees, in periodic installments. Plaintiff is required to make payments of 20 percent of the preceding month's income credited to his prison account until Plaintiff has paid the total filing fees of \$505.00.

The agency having custody of Plaintiff shall collect this amount from the trust fund account or institutional equivalent, when funds are available and when permitted by 28 U.S.C. § 1915(b)(2), and forward it to the Clerk of Court, 501 W. 5th Street, Austin, Texas 78701, referencing the case number in the style of this Order.

SIGNED on October 4, 2021.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE